

“(A) **MOST RECENT CONVENTIONAL MORTGAGE RATE.**—The term ‘most recent conventional mortgage rate’ means the contract interest rate on commitments for fixed-rate first mortgages most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release (or any successor publication), in the week preceding a date of determination for purposes of applying this subsection.

“(B) **QUALIFIED MORTGAGE.**—The term ‘qualified mortgage’ means—

“(i) any residential mortgage loan that constitutes a first lien on the dwelling or real property securing the loan and either—

“(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 3 percentage points; or

“(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 175 basis points;

“(ii) any residential mortgage loan that is not the first lien on the dwelling or real property securing the loan and either—

“(I) has an annual percentage rate that does not equal or exceed the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, that bear comparable periods of maturity by more than 5 percentage points; or

“(II) has an annual percentage rate that does not equal or exceed the most recent conventional mortgage rate, or such other annual percentage rate as may be established by regulation under paragraph (6), by more than 375 basis points; and

“(iii) a loan made or guaranteed by the Secretary of Veterans Affairs.

“(C) **QUALIFIED SAFE HARBOR MORTGAGE.**—The term ‘qualified safe harbor mortgage’ means any residential mortgage loan—

“(i) for which the income and financial resources of the consumer are verified and documented;

“(ii) for which the residential mortgage loan underwriting process is based on the fully-indexed rate, and takes into account all applicable taxes, insurance, and assessments;

“(iii) which does not provide for a repayment schedule that results in negative amortization at any time;

“(iv) meets such other requirements as may be established by regulation; and

“(v) for which any of the following factors apply with respect to such loan:

“(I) The periodic payment amount for principal and interest are fixed for a minimum of 5 years under the terms of the loan.

“(II) In the case of a variable rate loan, the annual percentage rate varies based on a margin that is less than 3 percent over a single generally accepted interest rate index that is the basis for determining the rate of interest for the mortgage.

“(III) The loan does not cause the consumer’s total monthly debts, including amounts under the loan, to exceed a percentage established by regulation of his or her monthly gross income or such other maximum percentage of such income as may be prescribed by regulation under paragraph (6).

“(4) **DETERMINATION OF COMPARISON TO TREASURY SECURITIES.**—

“(A) **IN GENERAL.**—Without regard to whether a residential mortgage loan is subject to or reportable under the Home Mortgage Disclosure Act of 1975 and subject to subparagraph (B), the difference between the annual percentage rate of such loan and the yield on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, having comparable periods of maturity shall be determined using the same procedures and methods of cal-

culation applicable to loans that are subject to the reporting requirements under the Home Mortgage Disclosure Act of 1975.

“(B) **DATE OF DETERMINATION OF YIELD.**—The yield on the securities referred to in subparagraph (A) shall be determined, for purposes of such subparagraph and paragraph (3) with respect to any residential mortgage loan, as of the 15th day of the month preceding the month in which a completed application is submitted for such loan.

“(5) **APR IN CASE OF INTRODUCTORY OFFER.**—For purposes of making a determination of whether a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate is a qualified mortgage, the determination of the annual percentage rate, as determined in accordance with regulations prescribed by the Board under section 107, shall be based on the greater of the introductory rate and the fully indexed rate of interest.

“(6) **REGULATIONS.**—

“(A) **IN GENERAL.**—The Federal banking agencies shall jointly prescribe regulations to carry out the purposes of this subsection.

“(B) **REVISION OF SAFE HARBOR CRITERIA.**—The Federal banking agencies may jointly prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage and a qualified safe harbor mortgage to the extent necessary and appropriate to effectuate the purposes of this subsection, to prevent circumvention or evasion of this subsection, or to facilitate compliance with this subsection.

“(7) **RULE OF CONSTRUCTION.**—No provision of this subsection may be construed as implying that a residential mortgage loan may be presumed to violate subsection (a) or (b) if such loan is not a qualified mortgage or a qualified safe harbor mortgage.”.

SEC. 204. **LIABILITY.**

Section 129B of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 203) the following new subsection:

“(d) **LIABILITY FOR VIOLATIONS.**—

“(1) **IN GENERAL.**—

“(A) **RESCISSION.**—In addition to any other liability under this title for a violation by a creditor of subsection (a) or (b) (for example under section 130) and subject to the statute of limitations in paragraph (7), a civil action may be maintained against a creditor for a violation of subsection (a) or (b) with respect to a residential mortgage loan for the rescission of the loan, and such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney’s fee.

“(B) **CURE.**—A creditor shall not be liable for rescission under subparagraph (A) with respect to a residential mortgage loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the creditor provides a cure.

“(2) **LIMITED ASSIGNEE AND SECURITIZER LIABILITY.**—Notwithstanding sections 125(e) and 131 and except as provided in paragraph (3), a civil action which may be maintained against a creditor with respect to a residential mortgage loan for a violation of subsection (a) or (b) may be maintained against any assignee or securitizer of such residential mortgage loan, who has acted in good faith, for the following liabilities only:

“(A) Rescission of the loan.

“(B) Such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney’s fee.

“(3) **ASSIGNEE AND SECURITIZER EXEMPTION.**—No assignee or securitizer of a residential mortgage loan shall be liable under paragraph (2) with respect to such loan if—

“(A) no later than 90 days after the receipt of notification from the consumer that the loan

violates subsection (a) or (b), the assignee or securitizer provides a cure so that the loan satisfies the requirements of subsections (a) and (b); or

“(B) each of the following conditions are met:

“(i) The assignee or securitizer—

“(I) has a policy against buying residential mortgage loans other than qualified mortgages or qualified safe harbor mortgages (as defined in subsection (c));

“(II) the policy is intended to verify seller or assignor compliance with the representations and warranties required under clause (ii); and

“(III) in accordance with regulations which the Federal banking agencies and the Securities and Exchange Commission shall jointly prescribe, exercises reasonable due diligence to adhere to such policy in purchasing residential mortgage loans, including through adequate, thorough, and consistently applied sampling procedures.

“(ii) The contract under which such assignee or securitizer acquired the residential mortgage loan from a seller or assignor of the loan contains representations and warranties that the seller or assignor—

“(I) is not selling or assigning any residential mortgage loan which is not a qualified mortgage or a qualified safe harbor mortgage; or

“(II) is a beneficiary of a representation and warranty from a previous seller or assignor to that effect,

and the assignee or securitizer in good faith takes reasonable steps to obtain the benefit of such representation or warranty.

“(4) **CURE DEFINED.**—For purposes of this subsection, the term ‘cure’ means, with respect to a residential mortgage loan that violates subsection (a) or (b), the modification or refinancing, at no cost to the consumer, of the loan to provide terms that would have satisfied the requirements of subsection (a) and (b) if the loan had contained such terms as of the origination of the loan.

“(5) **DISAGREEMENT OVER CURE.**—If any creditor, assignee, or securitizer and a consumer fail to reach agreement on a cure with respect to a residential mortgage loan that violates subsection (a) or (b), or the consumer fails to accept a cure proffered by a creditor, assignee, or securitizer—

“(A) the creditor, assignee, or securitizer may provide the cure; and

“(B) the consumer may challenge the adequacy of the cure during the 6-month period beginning when the cure is provided.

If the consumer’s challenge, under this paragraph, of a cure is successful, the creditor, assignee, or securitizer shall be liable to the consumer for rescission of the loan and such additional costs under paragraph (2).

“(6) **INABILITY TO PROVIDE RESCISSION.**—If a creditor, assignee, or securitizer cannot provide rescission under paragraph (1) or (2), the liability of such creditor, assignee, or securitizer shall be met by providing the financial equivalent of a rescission, together with such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney’s fee.

“(7) **NO CLASS ACTIONS AGAINST ASSIGNEE OR SECURITIZER UNDER PARAGRAPH (2).**—Only individual actions may be brought against an assignee or securitizer of a residential mortgage loan for a violation of subsection (a) or (b).

“(8) **STATUTE OF LIMITATIONS.**—The liability of a creditor, assignee, or securitizer under this subsection shall apply in any original action against a creditor under paragraph (1) or an assignee or securitizer under paragraph (2) which is brought before—

“(A) in the case of any residential mortgage loan other than a loan to which subparagraph (B) applies, the end of the 3-year period beginning on the date the loan is consummated; or

“(B) in the case of a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to